

REMARKS

Reconsideration and withdrawal of the rejection of all the claims now in the application (i.e. Claims 1-20) is respectfully requested in view of the foregoing amendments and the following remarks.

Initially, the Examiner objected to claims 9 and 13 because he considered that they positively recite a part of the human anatomy (a long bone). Applicant has amended claims 9 and 13 to indicate that the structure is for positioning or adapted to be positioned adjacent a long bone. Applicant considers that this is an acceptable claim format.

The Examiner went on to reject claims 9-12 and 18 for being indefinite under 35 U.S.C. § 112, second paragraph. Claim 9 requires the aiming arm to have at least two bores alignable with the at least two bores in the implant. The claim then requires a guide sleeve for insertion into each of the bores in the aiming arm first portion thereby resulting in at least two sleeves, one for each of the bores. Applicant has amended claim 9 to clarify that there is a guide sleeve for insertion into each bore in the first portion of the aiming arm and a means associated with each sleeve for independently holding the sleeve in each of the bores. Claim 10 adds a requirement that the means for holding the sleeve in each bore comprises a separate biased lever associated with the sleeve in each bore biased into engagement with a respective one of said sleeves. Claim 11 then requires each biased lever to have a recess for accommodating the respective sleeve in each bore with only a single recess having a surface contacting a respective one of said sleeves in each bore. Likewise claim 12 defines a separate lever engages with a respective sleeve in each bore. Applicant is trying to clarify that there are at least two bores in the aiming arm each adapted to receive a sleeve with a separate biased lever independently engaging each sleeve.

The Examiner then goes on to reject the claims as being anticipated by Simon U.S. Patent 6,039,739. Applicant has amended the independent claims to require that the lever have a recess that can be moved into and out of engagement with the outer surface of the sleeve by movement of the lever in a direction radially to the cylindrical bore in the sleeve. This structure is the opposite of that shown in the '739 patent where the part 30 engages the sleeve by movement along the axis of the sleeve 38. Furthermore, the '739 patent shows only a single lever 30 for locking the one or more sleeves 38 in the aiming arm in a simultaneous manner. Applicant believes that claims 1, 9 and 13 make it clear that there needs to be a means for independently holding the sleeve in each bore which means allows the independent release one of the sleeves from its bore. This clearly is not shown in Simon. In Simon, if more than one sleeve 38 is used, it will be released or locked on the aiming arm by a single movement of element 30. There would be no way to hold one sleeve 38 in position and release the other sleeve as is the intent of Applicant's claimed invention. Consequently Applicant submits that the claims are not anticipated or obvious over Simon since Simon neither teaches or suggests a lever structure associated with a respective one of said sleeves for independent locking and release as taught by Applicants.

It is believed that all of the independent claims are in condition for allowance and therefore the claims dependent therefrom are also in such condition.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone Applicants'

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attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

By 

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